

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FAROUK SYSTEMS, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:07-cv-03386
	§	
MICHAEL ROSENBLUM,	§	
INDIVIDUALLY and D/B/A	§	Jury Trial Demanded
FARRAHFAWCETTBEAUTY	§	
	§	
Defendant.	§	

DECLARATION OF BOBBI MIHAL

1. My name is Bobbi Mihal. I am over the age of eighteen, have never been convicted of a felony, and am fully qualified to make this declaration. The following facts are within my personal knowledge, except as noted, and are true and correct. I file this Declaration under 28 U.S.C. § 1746.

2. FSI owns U.S. Trademark Registration No. 2,660,257, issued December 10, 2002, for the mark CHI® for electric hair curling irons. A true and correct copy of the U.S. Trademark Registration No. 2,660,257 is attached hereto as Exhibit 1 and is incorporated herein.

3. U.S. Trademark Registration No. 2,660,257 is valid, subsisting, and in full force and effect.

4. FSI owns U.S. Trademark Registration No. 3,107,769, issued June 20, 2006, for the mark CHI® for electric hand-held dryers. A true and correct copy of the U.S. Trademark Registration No. 3,107,769 is attached hereto as Exhibit 2 and is incorporated herein.

5. U.S. Trademark Registration No. 3,107,769 is valid, subsisting, and in full force and effect.

6. Additionally, FSI is the owner of U.S. Trademark Application Serial No. 78/524,660 for the mark CHI for hair coloring preparations, namely, hair color lighteners, color lock treatments, color developers, and colors; U.S. Trademark Application Serial No. 77/055,581 for the mark CHI NANO for various hair irons; U.S. Trademark Application Serial No. 76/512,597 for the mark CHI for hair care products, namely, shampoo, thermal hair protective treatment, hair strengthening treatment, hair conditioner; hair care preparations, namely, solutions which bond to the hair to strengthen

the hair, and solutions to transform frizzy, curly, or damaged hair; U.S. Trademark Application Serial No. 78/622,448 for the mark ULTRA CHI for hair dryers; U.S. Trademark Application Serial No. 77/265,353 for the mark BIOCHI for electric hair curling irons, electric hair styling irons, electric hair straightening irons, and electric hair flat irons; and clothes irons and clothes steamers.

7. The trademark CHI® (the “Mark”) is associated exclusively with FSI for use with hair irons, as well as numerous other hair care products. FSI has used the mark CHI® in interstate commerce continuously since at least 2002. As a result of FSI’s marketing of its products and the extensive advertising and other business generation efforts to promote the Mark, the Mark has become well-known in the Houston metropolitan area, the State of Texas, the United States, and globally as identifying FSI’s products and business. Customers and potential customers in these areas have come to identify the Mark as originating with FSI. Consequently, FSI has developed substantial recognition among the consuming public for its high quality products sold under its CHI® Mark and has acquired and enjoys a valuable reputation and significant goodwill associated with its CHI® Mark and products sold under its CHI® Mark.

8. FSI’s use of the Mark in the hair care industry has been exclusive. As a result of this exclusive use of the Mark and the long and widespread use that has been made by FSI of the Mark, there is substantial recognition and association of the Mark with FSI by the consuming public for hair care products.

9. In September, FSI learned that Defendant was selling, offering for sale, and distributing hand held electric hair irons bearing FSI’s Mark through the auction website eBay.com under the eBay seller name “farrahfawcettbeauty.” FSI suspected that these hair irons were counterfeit. Therefore, FSI purchased from the auction website eBay.com one of Defendant’s hair irons in September 2007. Attached hereto as Exhibit 3 are true and correct copies of the purchase documents reflecting, among other things, that Defendant sold CHI-branded hair irons under the name “farrahfawcettbeauty.” Upon analysis of Defendant’s hair irons, FSI determined that Defendant’s CHI-branded hair irons do not originate from FSI and, in fact, are counterfeit products. Moreover, Defendant advertised and sold his hair irons as “Farouk Systems” hair irons and, in fact, the boxes in which Defendant’s hair irons were stored expressly state that they originate from “Farouk Systems Inc.,” despite the fact that Defendant did not get his counterfeit CHI-branded hair irons from Farouk Systems. Additionally, these counterfeit CHI-branded hair irons are inferior in quality to authentic CHI-branded hair irons. Despite this fact, however, Defendant, advertised, promoted, sold, and offered for sale these counterfeit products as “Farouk CHI” irons under the seller I.D. “farrahfawcettbeauty”. See e.g., Exhibit 3 hereto.

10. After determining that Defendant was selling counterfeit CHI-branded hair irons, FSI filed Notifications of Infringement through eBay.com’s “VeRO Program” which allows trademark owners to request removal of certain offers on eBay.com due to violations of the trademark owners’ rights. The Notifications of Infringement expressly stated that the CHI-branded hair irons being sold by Defendant are unauthorized replicas,

i.e., counterfeits, of FSI's CHI® branded hair irons. As a result of the Notifications of Infringement, eBay.com removed from its website all of the items identified in the Notifications of Infringement for Defendant's seller name "farrahfawcettbeauty."

11. Defendant's counterfeit CHI-branded hair irons are likely to cause confusion among consumers as to the source of Defendant's counterfeit CHI-branded hair irons because (1) Defendant's and FSI's products are virtually identical; (2) the CHI-branding on each parties' products are virtually identical; (3) the class of consumers, namely, individuals purchasing hair irons for their personal use, are identical; (4) Defendant promotes his counterfeit CHI-branded hair irons as "Farouk CHI" hair irons; and (5) consumers have been actually confused as to the source of Defendant's counterfeit CHI-branded hair irons as evidenced by their requests to FSI to repair or replace Defendant's counterfeit CHI-branded hair irons.

12. Additionally, Defendant's counterfeit CHI-branded hair irons are likely to cause dilution of FSI's federally registered mark CHI® because Defendant's counterfeit CHI-branded hair irons are inferior to authentic CHI-branded hair irons which denigrates the goodwill associated with FSI's mark CHI®.

13. As a consequence of these activities and the impairment to FSI's goodwill, reputation, and customer base, FSI has been irreparably harmed to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is permanently enjoined by this Court from continuing his unlawful activity.

14. Defendant's customers then believe they receive genuine CHI® branded hair irons instead of Defendant's counterfeit CHI-branded hair irons as evidenced by Defendant's "Feedback" for his eBay seller name "farrahfawcettbeauty." Attached hereto as Exhibit 4 are true and correct copies of Defendant's customer feedback from eBay for eBay seller "farrahfawcettbeauty."

15. FSI promotes and advertises its genuine CHI® branded hair irons by displaying photographs of the hair irons themselves as well as photographs of the packaging in which the hair irons are placed. The packaging of Defendant's counterfeit CHI-branded hair irons are nearly identical to FSI's genuine packaging.

I declare under the penalty of perjury that the foregoing statements are true and correct. Executed this 14 day of May, 2008, at Houston, Texas.



BOBBI MIHAL

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

United States Patent and Trademark Office

Reg. No. 2,660,257

Registered Dec. 10, 2002

**TRADEMARK
PRINCIPAL REGISTER**

CHI

GLOBAL BEAUTY NETWORK, INC. (NEVADA
CORPORATION)
218 JESSE WAY
REDLANDS, CA 92374

FIRST USE 1-18-2001; IN COMMERCE 1-18-2001.

SN 76-073,192, FILED 6-19-2000.

FOR: ELECTRIC HAIR CURLING IRONS, IN
CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

KEVON CHISOLM, EXAMINING ATTORNEY

EXHIBIT 1

The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.



A handwritten signature in black ink, appearing to read "James H. Moore".

Director of the United States Patent and Trademark Office



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: [76073192](#)

Filing Dt: 06/19/2000

Reg #: [2660257](#)

Reg. Dt: 12/10/2002

Registrant: Global Beauty Network, Inc.

Mark: CHI

Assignment: 1

Reel/Frame: [2577/0983](#)

Received: 09/10/2002

Recorded: 09/05/2002

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [GLOBAL BEAUTY NETWORK, INC.](#)

Exec Dt: 12/18/2001

Entity Type: CORPORATION

Citizenship: NONE

Entity Type: CORPORATION

Citizenship: TEXAS

Assignee: [FAROUK SYSTEMS, INC.](#)

250 PENNBRIGHT, SUITE 150

HOUSTON, TEXAS 77090

Correspondent: BRACEWELL & PATTERSON L. L. P.

BEN D. TOBOR

711 LOUISIANA, STE. 2900

HOUSTON, TX 77002-2781

Search Results as of: 08/03/2007 04:50 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1

Web interface last modified: April 20, 2007 v.2.0.1

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Int. Cl.: 11

Prior U.S. Cls.: 13, 21, 23, 31, and 34

United States Patent and Trademark Office

Reg. No. 3,107,769

Registered June 20, 2006

TRADEMARK
PRINCIPAL REGISTER

CHI

FAROUK SYSTEMS, INC. (TEXAS CORPORATION)
250 PENNBRIGHT, SUITE 150
HOUSTON, TX 77090

FOR: ELECTRIC HAND-HELD HAIR DRYERS,
IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

FIRST USE 12-1-2005; IN COMMERCE 12-1-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,660,257.

SN 78-414,762, FILED 5-7-2004.

JOHN LINCOSKI, EXAMINING ATTORNEY

EXHIBIT 2

The United States of America



CERTIFICATE OF REGISTRATION

PRINCIPAL REGISTER

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. Dudas

Director of the United States Patent and Trademark Office



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Overview Add Funds Withdraw History Resolution Center Profile

Transaction Details

eBay Payment Sent (ID # 8PD47821CW771190U)

Total Amount:-\$87.95 USD

Date:Sep. 21, 2007

Time:12:31:30 PDT

Status:Completed

farrahfawcettbeauty

Item #	Item Title	Qty	Price	Subtotal
270168198715	Farouk Chi Ceramic Hair Straightener Flat Iron NEW	1	\$71.00 USD	\$71.00 USD

Shipping & Handling via USPS Priority Mail \$16.95 USD
(Includes any seller handling fees):

Shipping Insurance : --

Total: \$87.95 USD

Shipping Address:Chris Marteeny
250 Pennbriht
Houston, TX 77090
United States
Confirmed

Payment To:Michael Rosenblum (The recipient of this payment is **Verified**)

Seller's ID:farrahfawcettbeauty

Seller's Email:turbostreetracer@earthlink.net

EXHIBIT 3

Funding Type:Credit Card
Funding Source:\$87.95 USD - American Express Card XXXX-XXXXXX-X4002

This credit card transaction will appear on your bill as "PAYPAL *TURBOSTREET".

Shipment Information

Shipping Status:Shipped
Reference Number:U.S. Postal Service 9101128882300015979895 [Learn More](#)

Service Type:Priority Mail® (2-3 days)
Package Size:Package/Thick Envelope
Dimensions:12 X 5 X 2 in
Mailing Date:Sep. 22, 2007
Signature Confirmation:No
Display Postage Value on Label:No
Shipping Insurance:No

Ship From:Michael Rosenblum
433 Cretin Avenue South
Saint Paul, MN 55105-1313
United States

Ship To:Chris Marteeny
250 Pennbright
Houston, TX 77090
United States
Confirmed Residential address 

[[Return Shipping Label](#) | [Print Packing Slip](#) | [Remove Shipping Button/Link](#)] 

Original Transaction				
Date	Type	Status	Details	Amount
Sep. 21, 2007	Payment To Michael Rosenblum	Completed	...	-\$87.95 USD

Related Transaction				
Date	Type	Status	Details	Amount
Sep. 21, 2007	Charge From Credit Card	Completed	Details	\$87.95 USD

Need help? If you have problems with a transaction or would like assistance settling a dispute with your seller, visit the [Resolution Center](#). PayPal strongly recommends attempting to resolve this issue directly

with the merchant or seller whenever possible.

.....

Description:Farouk Chi Ceramic Hair Straightener Flat Iron NEW

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eBay Max



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Listed in category: [Health & Beauty](#) > [Hair Care](#) > [Straightening Irons](#) > [Farouk Chi](#)

Farouk Chi Ceramic Hair Straightener Flat iron NEW



This item has been paid through PayPal. Payment was sent to: [turbostreetracer@](#)

[Leave Feedback >](#)

To let other eBay users know what your experience has been with this seller, click the **Leave Feedback** button

Find more items from the same seller. Bid or Buy Now!



Farouk Chi Ceramic Hair
Straightener Flat iron NEW

1 bids: **US \$0.99**

Time left: 8h 49m

Farouk Chi Ceramic Hair
Straightener Flat iron NEW

4 bids: **US \$10.00**

Time left: 2h 49m

Farouk Chi Ceramic Hair
Straightener Flat iron NEW

0 bids: **US \$0.99**

Time left: 22h 49m

[View more items from this seller](#)

Other actions for this item:

You can manage all your items in My eBay and do the following:

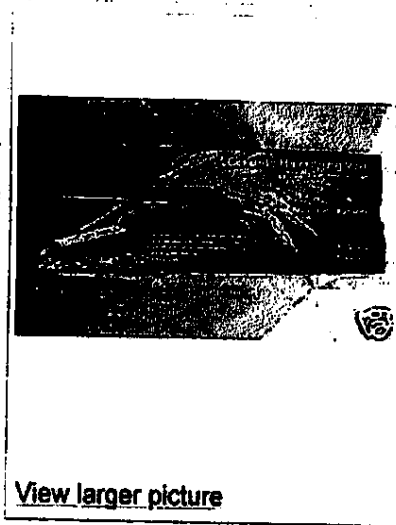
- [View Order Details](#)
- [View PayPal payment](#) for this item.

☒ [Contact Seller](#) about this item.

Additional Options:

- To view other items from this seller, [view seller's other items](#).
- If this listing is similar to an item you want to sell, [list an item like this](#).

» You may add this seller to your Favorite Sellers in My eBay.



Winning bid: **US \$71.00**

Ended: **Sep-21-07 10:00:00 PDT**

Shipping costs: **US \$16.95**
US Postal Service Priority Mail®
Service to United States

Ships to: **United States**

Item location: **Priority Shipping, United States**

History: **20 bids**

Winning bidder: **[darlenewilson2006](#) (2)**

You can also: [Email to a friend](#)

Meet the seller

Seller: **[farrahfa](#)**
★ Power Seller

Feedback: **100% Positive**

Member: **since Jan 2005**

- [Read feedback](#)
- [Ask seller a question](#)
- [Add to Favorite](#)
- [View seller's other items](#)

Buy safely

1. **Check the seller's**
Score: **607 | 100%**
[Read feedback](#)
2. **Check how you**
Returns: **Seller's Return Policy**
[30 Day Return](#)

[Listing and payment details:](#) [Show](#)

Description

Item Specifics - Item Condition
Condition: **New**

This iron is brand new in the box and with all the original packing.

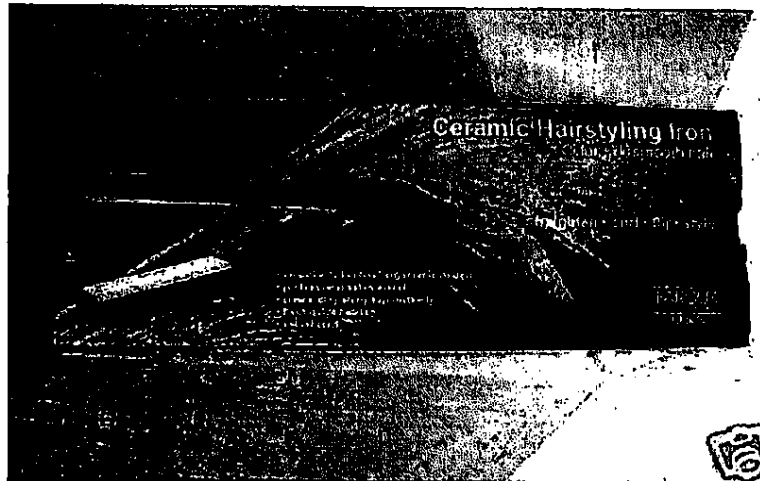
**FAROUK CHI 1" CERAMIC
FLAT IRON HAIR IRON**

PRIORITY SHIPPING

G 2-3 DAYS



Powered by Selling Manager Pro



00055

Free Credit Report & Score From Experian. Learn more.

Shipping and handling

Ships to
United States

Country: United States

Shipping and Handling	To	Service
US \$16.95	United States	US Postal Service Priority Mail® Estimated delivery 2-3 days*

*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.

Shipping insurance
Not offered

Return policy

Item must be returned within:	30 Days
Refund will be given as:	Exchange
Return policy details:	I will refund or exchange defective irons. Include your auction details with your iron and a notation if you want an exchange or a refund.

Payment details

Payment method

Preferred/Accepted

Buyer protection on eBay



Seller Preferred

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Seller's payment instructions

I only ship to the US.

If you pay with an echeck reception of your iron will be delayed a few days.

Helpful information

eBay recommended services

PayPal is the safe way to pay online. Your financial information is never shared with sellers. Plus, you get [free PayPal Buyer Protection](#) on qualified listings.

Other options

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Seller assumes all responsibility for listing this item.

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Transaction Details

eBay Payment Sent (ID # 8PD47821CW771190U)

Total Amount:-\$87.95 USD
Date:Sep. 21, 2007
Time:12:31:30 PDT
Status:Completed

farrahfawcettbeauty

Item #	Item Title	Qty	Price	Subtotal
270168198715	Farouk Chi Ceramic Hair Straightener Flat Iron NEW	1	\$71.00 USD	\$71.00 USD

Shipping & Handling via USPS Priority Mail **\$16.95 USD**
(Includes any seller handling fees):
Shipping Insurance : --

Total: \$87.95 USD

Shipping Address:Chris Marteeny
250 Pennbright
Houston, TX 77090
United States
Confirmed

Payment To:Michael Rosenblum (The recipient of this payment is Verified)
Seller's ID:farrahfawcettbeauty
Seller's Email:turbostreetracer@earthlink.net

Funding Type:Credit Card
Funding Source:\$87.95 USD - American Express Card XXXX-XXXXXX-X4002

This credit card transaction will appear on your bill as "PAYPAL *TURBOSTREET".

.....

Shipment Information

Shipping Status:Shipped
Reference Number:U.S. Postal Service 9101128882300015979895 [Learn More](#)

Service Type:Priority Mail® (2-3 days)
Package Size:Package/Thick Envelope
Dimensions:12 X 5 X 2 In
Mailing Date:Sep. 22, 2007
Signature Confirmation:No
Display Postage Value on Label:No
Shipping Insurance:No

Ship From:Michael Rosenblum
433 Cretin Avenue South
Saint Paul, MN 55105-1313
United States

Ship To:Chris Marteeny
250 Pennbright
Houston, TX 77090
United States
Confirmed Residential address 

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.....

Original Transaction				
Date	Type	Status	Details	Amount
Sep. 21, 2007	Payment To Michael Rosenblum	Completed	...	-\$87.95 USD

Related Transaction				
Date	Type	Status	Details	Amount
Sep. 21, 2007	Charge From Credit Card	Completed	Details	\$87.95 USD

.....

Need help? If you have problems with a transaction or would like assistance settling a dispute with your seller, visit the [Resolution Center](#). PayPal strongly recommends attempting to resolve this issue directly

with the merchant or seller whenever possible.

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Description:Farouk Chi Ceramic Hair Straightener Flat Iron NEW

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EBAY.COM FEEDBACK FOR EBAY SELLER FARRAHFAWCETTBEAUTY

	Love my Chi Flat Iron, heats up quick, even works on my thick and course hair	Buyer: lesleycharlotte (478 )	Nov-24-07 21:53
	-- (#280161692626)	--	

	love my chi. very fast shipment. thanks so much!	Buyer: atreu89xx (32 )	Oct-06-07 10:45
	-- (#280157813205)	--	

	Fast shipment... chi works great.....thanks	Buyer: kelsey11101983 (3)	Sep-24-07 05:48
	-- (#270167406087)	--	

	Thank u so much for the SPEEDY delivery!! My other Chi had bit the dust!!!	Buyer: acidude (89 )	Sep-13-07 00:23
	-- (#270163120344)		

	Fast shipping! Great new chi iron!!!!	Buyer: greenssheba (17 )	Sep-07-07 16:29
	-- (#270161032861)	--	








	i love this chi its awesome	Buyer: punk_smack (4)	Sep-04-07 22:48
	-- (#270159529939)	--	

EXHIBIT 4

	New CHI version/model looks CHEAP but works OK, fast SHIP. Thank u anyway.	Buyer: claudeliz (218 )	Aug-30-07 09:50
	-- (#270157637636)	--	

	The Chi flat iron is great! I received it quickly and brand new! Great seller!	Buyer: donnas4471 (20 )	Aug-20-07 04:53
	-- (#270153530328)	--	

	Quick shipment; very happy with my chi. Excellent service!	Buyer: thejulah (11 )	Aug-19-07 09:15
	-- (#270155198110)	--	